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Federal Communications Commission  
Office of Secretary

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Interconnection and Resale Obligations ) CC Docket No. 94-54  
Pertaining to )  
Commercial Mobile Radio Services; )  
Commission Seeks Additional Comments ) DA 97-2558  
On Automatic Roaming Proposals For )  
Cellular, Broadband PCS, and Covered )  
SMR Networks )

To: The Commission

ADDITIONAL COMMENTS OF NEXTEL COMMUNICATIONS, INC.

NEXTEL COMMUNICATIONS, INC.

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Date: January 5, 1998

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ADDITIONAL COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to Section 1.415(d) of the Rules of the Federal Communications Commission ("Commission") and the December 5, 1997 Public Notice of the Commission,<sup>1/</sup> Nextel Communications, Inc. ("Nextel") respectfully submits these Additional Comments on the Commission's proposal to mandate automatic roaming on cellular, broadband Personal Communications Services ("PCS") and covered Specialized Mobile Radio ("SMR") services.

Nextel opposes the Commission's proposal to mandate automatic roaming. Given the number of Commercial Mobile Radio Service ("CMRS") providers in the marketplace, each vying for customers and seeking to expand and enhance their telecommunications services, such government mandates are unnecessary. The marketplace will determine whether automatic roaming (or manual roaming) best serves

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<sup>1/</sup> Public Notice, "Commission Seeks Additional Comments On Automatic Roaming Proposals For Cellular, Broadband PCS, and Covered SMR Networks," DA 97-2558, released December 5, 1997 ("Notice").

customers' needs. For those reasons, Nextel respectfully requests that the Commission refrain from mandating automatic roaming on any CMRS carriers.

## II. BACKGROUND

In its Second Report and Order and Third Notice Of Proposed Rule Making in this proceeding,<sup>2/</sup> the Commission imposed a manual roaming obligation on all cellular, broadband PCS and covered SMR providers.<sup>3/</sup> Additionally, the Commission sought comment on whether it should likewise mandate automatic roaming among those CMRS carriers. In the December 5, 1997 Notice, the Commission seeks further comment -- based on the past year's experiences in the marketplace -- on whether to impose an automatic roaming obligation. Specifically, the Commission seeks comment on: "(1) the ability of new CMRS entrants, particularly PCS C,D,E, and F block licensees, to provide automatic roaming; (2) the extent to which CMRS providers, including new entrants, have entered into roaming agreements, and the nature of those agreements; and (3) any other recent developments that have an impact on the technical

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<sup>2/</sup> Second Report and Order and Third Notice Of Proposed RuleMaking, 11 FCC Rcd 9462 (1996) ("Second R&O").

<sup>3/</sup> Manual roaming, according to the Commission, is the ability to establish a roaming relationship with an individual roamer "in the course of attempting to originate a call by giving a valid credit card number to the carrier providing service." Second R&O at para. 5. Nextel sought reconsideration of the manual roaming obligation. See Petition for Reconsideration, CC Docket No. 94-54, filed September 26, 1996.

feasibility or cost of [the Commission's] automatic roaming proposals."4/

As the primary provider of CMRS services employing Motorola's digital iDEN technology, Nextel provides intra-system "roaming" to its customers on its various systems throughout some 400 cities nationwide; more importantly, Nextel provides this "roaming" service free of charge. Such marketplace-driven, competitive services evidence that the marketplace eliminates the need for government mandates. The Commission, therefore, should reconsider its manual roaming obligation and refrain from imposing an automatic roaming obligation on competitive CMRS carriers.

### **III. DISCUSSION**

#### **A. An Automatic Roaming Mandate Is Not In The Public Interest**

In the Omnibus Budget Reconciliation Act of 1993 and the Telecommunications Act of 1996, Congress moved the wireless telecommunications industry away from governmental regulation and toward a competitive marketplace governed by market forces. Imposing an automatic roaming obligation on CMRS carriers flies in the face of these deregulatory policies, imposes unnecessary burdens on carriers and eliminates much-needed flexibility in contracting for roaming arrangements with other carriers.

Nextel is aware of no evidence that would justify the Commission imposing automatic roaming requirements on the marketplace. Broadband PCS carriers are rapidly deploying systems throughout the country and competing with incumbent cellular

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4/ Notice at p. 2.

carriers. Nextel, at the same time, has increased its footprint to some 400 cities nationwide. As long as consumers are being offered competitive services at just and reasonable rates, terms and conditions, there is no justification for additional Commission mandates that would interfere with the marketplace.

An automatic roaming mandate, as the Commission recognized in the Third Notice Of Proposed Rulemaking,<sup>5/</sup> could be very costly to carriers, particularly if those carriers are unable to negotiate freely with other carriers. Forcing broadband PCS, cellular and covered SMR carriers to enter into every proposed roaming agreement, without regard to the economics or capacity constraints involved, will result in uneconomical, costly roaming services for the consumer. As a result, consumers will bear the burden of the Commission's costly mandate while deriving no benefit that is not already provided through voluntary roaming arrangements.

Voluntary roaming agreements provide carriers significant flexibility in negotiating the terms and conditions of roaming service. This flexibility is critical to providing the most economical service to customers because it allows the carriers to negotiate provisions that are suited to their particular situation. If the Commission were to mandate automatic roaming agreements, carriers would not only be forced to enter into roaming agreements that are not necessarily in their customers' best economic interests, but they also would be forced to enter them without the

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<sup>5/</sup> See fn. 2, *supra.*, at para. 29.

flexibility to negotiate specific terms and conditions unique to their needs and concerns.

**B. The Commission Should Narrow the "Covered SMR" Definition Consistent With Its Conclusion in the 911/E911 Proceeding**

In its Memorandum Opinion and Order in the 911/E911 proceeding,6/ the Commission concluded that its original "covered SMR" definition was "overinclusive" in that it applied to SMR systems that provided primarily traditional dispatch services.7/ Such services, the Commission found, should not be subject to 911/E911 requirements because, among other things, they were not expected to compete directly with cellular and PCS services. Similarly, in the event it adopts any mandatory roaming requirement, the Commission should limit it only to those SMR systems that are likely to compete with cellular and PCS services.

The term "covered SMR" should encompass only those SMR systems that offer consumers two-way voice services using a mobile telephone switching facility. This would ensure that "covered SMR" encompasses only high-capacity SMR systems with the licensed channels divided into groups that are then assigned to specific geographic cells (as defined in Section 22.2), that can be reused in different cells within the service area and are capable of automatically handing off a mobile unit's call as that mobile unit

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6/ Memorandum Opinion and Order, FCC 97-402, released December 23, 1997 ("E911 Order").

7/ Id. at para. 76.

travels throughout the service area.<sup>8/</sup> It is this network intelligence that allows an SMR provider to compete with other CMRS providers, including those that also would be subject to an automatic roaming obligation. Therefore, the Commission should clarify that its "covered SMR" definition for purposes of applying a roaming obligation is the same as the definition used for 911/E911 purposes, *i.e.*, only those SMR systems with "in-network switching capability."<sup>9/</sup>

Further, the Commission should clarify, as it did in the E911 Order, that the amended definition is applied on a system-by-system basis.<sup>10/</sup> A specific licensee could hold many SMR licenses -- some of them for single site dispatch, non-cellular systems; others for wide-area, two-way voice services using a switching facility. Therefore, consistent with the Commission's conclusion that local SMR systems could be overburdened by the imposition of roaming obligations and its decision in the E911 Order, roaming obligations should not be applied to any local SMR system -- regardless of who is operating it.

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<sup>8/</sup> See Section 22.2 of the Commission's rules for the definition of a "cellular" system. Nextel's proposed definition of "covered SMR" would ensure that only systems similarly configured to a cellular system would be covered by the resale obligations.

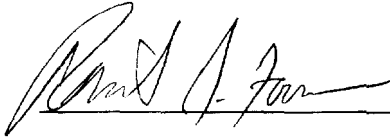
<sup>9/</sup> *Id.* at para. 78.

<sup>10/</sup> See E911 Order at para. 82 ("...where a licensee provides 'covered' interconnected services on one system while providing traditional dispatch services on another system, only the 'covered' system is required to provide E911 services.")

**IV. CONCLUSION**

For the reasons discussed here, Nextel respectfully requests that the Commission allow cellular, broadband PCS and covered SMR carriers to voluntarily enter into roaming agreements.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Robert S. Foosaner", is written over a solid horizontal line.

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Date: January 5, 1998



## CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 5<sup>th</sup> day of January, 1998, I caused a copy of Additional Comments of Nextel Communications, Inc. to be served hand delivery:

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